

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OKLAHOMA

STATE OF OKLAHOMA, et al., *
*
Plaintiffs, *
*
v. * 05-CV-0329 GKF-PJC
*
TYSON FOODS, INC., et al., *
*
Defendants. *

VIDEO DEPOSITION OF JIM SHARP

ANSWERS AND DEPOSITION OF JIM SHARP, produced as a witness at the instance of the Defendants Cargill, Inc. and Cargill Turkey Production, LLC, taken in the above-styled and -numbered cause on the 10th day of April, 2009, A.D., beginning at 12:55 p.m., before Lisa Smith, a Certified Shorthand Reporter in and for the State of Texas, in the offices of Rhodes, Hieronymus, Jones, Tucker & Gable, PLLC, located at 100 West Fifth Street, Suite 400, Tulsa, Oklahoma, in accordance with the Federal Rules of Civil Procedure and the agreement hereinafter set forth.

Walker Declaration Exhibit 9

JIM SHARP

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A P P E A R A N C E S

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ALSO PRESENT:

ANN DAVIS - Videographer

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E X H I B I T L I S T

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P R O C E E D I N G S

THE VIDEOGRAPHER: This is Tape No. 1 to the videotaped deposition of Jim Sharp in the matter of State of Oklahoma versus Tyson Foods, being heard before the U.S. District Court for the Northern District of Oklahoma, Case No. 05-CV-0329 GKF-PJC. This deposition is being held at 100 West Fifth, Suite 400, Tulsa, Oklahoma on 4/10/09 at 12:55 p.m.

My name is Ann Davis. I am the videographer. The court reporter is Lisa Smith.

Counsel will please introduce yourselves and affiliations and the witness will be sworn.

MR. DOLAN: Christopher Dolan of Faegre and Benson for the Cargill defendants.

MS. LLOYD: Jennifer Lloyd from Bassett Law Firm for George's Inc.

MR. GREEN: Pat Green for the State of Oklahoma.

JIM SHARP,
having been first duly sworn, testified as follows:

EXAMINATION

BY MR. DOLAN:

Q. Good afternoon, Mr. Sharp.

A. Good afternoon.

Q. As I stated earlier, my name is Christopher Dolan

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1 and I represent the Cargill defendants in this matter. We
2 just met for the first time and I just, before we get
3 started, want to find out if you've been in a deposition
4 before.

5 A. No, never.

6 Q. All right. Well, just to go over some -- some
7 ground rules so we're both on the same page as we progress
8 through our -- our time this afternoon, as you notice we
9 have a court reporter who's drafting everything that we --
10 that we say. So it's really important that we each speak
11 one at a time and we don't talk over each other. So I'd
12 ask that you wait to give your response until I'm -- I'm
13 done giving the question. Is that okay with you?

14 A. That's fine with me.

15 Q. All right. Because we have a court reporter, it's
16 also important that we give verbal responses. So it
17 doesn't help to nod up and down or left to right. You need
18 it say yes or no, whatever answer is called for.

19 A. I understand.

20 Q. And when I ask you a question, I'm gonna assume
21 that you understand it if you give me an answer. If I ever
22 ask a question that doesn't make sense to you or you're not
23 quite clear what I'm asking, let me know and I'll -- I'll
24 try to ask the question in a better way. Is that okay?

25 A. I'll -- I'll do that.

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1 Q. All right. And if you need a break for whatever
2 reason, that's fine. Let us know. I'd only ask that you
3 wait until we finish the question and answer. Is that
4 okay?

5 A. That's fine.

6 Q. All right. Are you taking any medications right
7 now that might affect your judgment?

8 A. No, sir. No medications at all.

9 Q. Have you had any -- any alcoholic drinks or
10 anything else that might affect -- any drug that might
11 affect your judgment in the last eight hours or so?

12 A. No, sir.

13 Q. All right. And I'll just remind you that your
14 deposition here today is under oath and it's just like
15 testifying in court before a judge. Do you understand
16 that?

17 A. I understand perfectly.

18 Q. All right.

19 MR. DOLAN: Let me have the court reporter
20 mark Exhibit 1.

21 (Exhibit No. 1 was marked.)

22 Q. Sir, I'm handing to you what's been marked by the
23 court reporter as Exhibit 1. Do you recognize this
24 document?

25 A. This is the document that you sent me in the mail,

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1 I believe. Isn't that the document?

2 Q. Is that -- is that what it appears to be?

3 A. That's what it appears to be to me.

4 Q. All right. Is that the document that causes you
5 to be here today?

6 A. It certainly is.

7 Q. I noticed on this document, the subpoena, that it
8 doesn't have your address. Could you please state your
9 address for the record, please.

10 A. 315 West Chestnut Street, Stillwell, Oklahoma, Zip
11 code 74960.

12 Q. Now is that -- is that a home or an apartment?

13 A. Home.

14 Q. All right. Is it -- is it on a farm or is it just
15 a house?

16 A. It's a street address in the city of Stillwell.

17 Q. All right. You'll see on this exhibit about
18 halfway down there's a paragraph in bold. It says that
19 you're to bring with you any and all documents and
20 electronically stored information, meaning e-mail or -- or
21 computer files, related to investigation of poultry
22 operations in the Illinois River Watershed in which you --
23 which you participated. Did you bring any documents?

24 A. No, sir, I did not.

25 Q. All right. Did you -- did you ever communicate

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1 with anyone regarding this matter via e-mail?

2 A. No, sir. I don't even know how to do e-mail. I
3 don't have a computer for that, so --

4 Q. That's fine. All right. Did you ever keep any
5 documents related to this investigation?

6 A. No, sir, I did not.

7 Q. All right. Do you -- do you keep your tax
8 records?

9 A. Yes, sir.

10 Q. All right. Would you possibly have any 1099 forms
11 related to any income you made from this?

12 A. I didn't get paid to -- to take pictures.

13 Q. Okay. So you received no -- no income --

14 A. All I got was -- they loaned me a camera. They
15 loaned me a GPS unit and they gave me a pre -- well, one of
16 those pre-charge phones or whatever, and I would take
17 pictures and record the location and then turn it over to
18 an associate of Dr. French's. I don't remember his name.
19 But I kept none of it. And all they did was reimburse me
20 for time and mileage.

21 Q. When you say reimburse you for time --

22 A. You know, for driving, you know, miles and
23 whatnot. Not by the hour or nothing.

24 Q. Okay. Do you remember how much they reimbursed
25 you?

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1 A. It never was more than about 150, 160 a week and
2 it was five or six weeks. I'm not exactly sure.

3 Q. Were you doing this full-time during that period?

4 A. No.

5 Q. Now, today we're gonna talk about the Illinois
6 River Watershed. Are you familiar with that term?

7 A. Yes, I am.

8 Q. All right. And as it says here in this -- in this
9 paragraph, we're talking about today the investigation of
10 poultry operations in the Illinois River Watershed. And
11 what do you take that description to mean?

12 A. There's been some discussion that there's too much
13 chicken litter being distributed on the rocky terrain in my
14 part of the state, Eastern Oklahoma, and that the runoff is
15 causing algae bloom in rivers and streams and the lakes.

16 Q. But when it refers simply to the investigation,
17 what do you take that to mean?

18 A. The investigation, I -- I don't know exactly what
19 you mean.

20 Q. Well, when -- let me ask it a different way. How
21 would you define the role that you had in relationship to
22 this -- to this matter?

23 A. A concerned citizen.

24 Q. Okay. So you're -- you're doing a little bit more
25 than a concerned citizen. You're taking pictures, having

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1 -- how -- how would you sort of describe what you were
2 doing?

3 A. Taking pictures.

4 Q. All right. Well, today as we're discussing, I may
5 refer to the investigation and/or I might refer to the work
6 you did in the Watershed. I just want to make sure we're
7 talking about the same thing. What I'm referring to is the
8 work that you did, as you described it, in taking pictures
9 and using a GPS unit, any notes you might have taken. Are
10 we on the -- do we have a common understanding?

11 A. Yes, we do.

12 Q. Okay. One thing you said I just wanted to ask
13 about. You said he gave you a prepaid phone; is that
14 correct?

15 A. Yeah.

16 Q. What was the -- what was the purpose of that
17 prepaid phone?

18 A. So I could make -- they could call me and tell me
19 when they were coming to pick -- pick up the information.

20 Q. Do you have a phone line at your home?

21 A. No, I do not. That was the reason.

22 Q. When you refer to they, who are you referring to?

23 A. Steve Steele was a friend of mine that I -- and he
24 asked me if I knew anything about, you know, the algae
25 bloom and I said I did. And he said would you help me

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1 locate chicken houses in the area. And I said I would.
2 And he introduced me to Dr. Fisher from TU and then from
3 then on Dr. Fisher's usually who I dealt with or a student
4 of his that would come down once a week or every two weeks
5 and take the information.

6 Q. Do you remember the name of the student?

7 A. No, I do not.

8 Q. Earlier you had said a Dr. French. Is that -- do
9 you mean Dr. Fisher or is that someone different?

10 A. I meant Fisher. I just barely know him. I met
11 him a couple times, but --

12 Q. I might have heard -- heard you wrong.

13 A. Maybe I misspoke.

14 Q. How many times did you meet Dr. Fisher?

15 A. Not more than three or four times.

16 Q. And how many times do you think this student
17 stopped by to talk to you?

18 A. Five or six, maybe.

19 Q. Those three or four times you talked to
20 Dr. Fisher, what -- what was the reason you were talking to
21 him?

22 A. Just telling him -- well, one instance, I took a
23 picture of some polluted water. I just told him about it.

24 Q. And by polluted water, what -- what do you mean?

25 A. The Baron Fork near the -- Dutch Mills, Arkansas,

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1 dead fish on top of the stream.

2 Q. And what -- what's your basis for thinking it was
3 polluted water, though?

4 A. Well, it was -- Baron Fork is a generally pretty
5 clean stream. It looks pretty good. I grew up in it. And
6 this is near a poultry operation. And at the time I saw
7 these fish, they were spreading litter within a hundred --
8 hundred yards of the stream.

9 Q. You say they were spreading litter?

10 A. Well, I don't know who it was. Some -- some
11 farmer or some employee of some farmer.

12 Q. But you don't remember who it was or who they were
13 working for?

14 A. No. I didn't ask them their name, no.

15 Q. So that's one time you talked to Dr. Fisher.
16 What -- what other times did you talk to Dr. Fisher?

17 A. A couple times we talked about baseball.

18 Q. Would -- would he call you up or would you be in a
19 meeting or --

20 A. A couple times he drove down -- he came down once
21 with Steele and we just talked for a few minutes about what
22 they were doing. And I said I would volunteer to look up
23 poultry operations and take pictures of them.

24 Q. And that was first time you met?

25 A. Yeah.

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1 Q. How long did that meeting last?

2 A. Half hour, 20 minutes, something. I don't know.

3 Q. And the other times you talked to Dr. Fisher, was
4 that a personal meeting or --

5 A. He came once with a student and introduced him to
6 me, you know, but I can't remember his name. I just
7 remember he had tattoos and he was a baseball fan, a big
8 camper, liked to camp out. That's all I can tell you about
9 him. And one other time he was with some other -- somebody
10 I didn't know and they were in the area. And I met them in
11 Siloam and talked to them about five minutes, because I was
12 close to where they were.

13 Q. Do you remember what that conversation was about?

14 A. I told him about seeing the dead fish on top of
15 the water and gave him a GPS location where it was, because
16 it was near where I met him.

17 Q. Any other time you remember talking to Dr. Fisher?

18 A. No. We didn't talk much on the phone or anything
19 like that.

20 Q. How about the student that came by, what -- do --
21 do you remember what -- when the student stopped by, what
22 would the student do?

23 A. He would plug in his computer, take the digital
24 camera, take the GPS unit, download any and all pictures
25 I'd taken and the GPS points and then he'd clear it out and

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1 we'd talk about baseball or camping or fishing, you know.
2 That's about it.

3 Q. Would you take any notes on the things you would
4 tell him when you saw him in the field?

5 A. I don't remember ever taking any notes. No, I --
6 he was always -- he was a computer kid, you know, like my
7 nephews. They're always like this, right, so always going
8 on. So I don't know what he was doing.

9 Q. Were you -- you -- you talking about, though, the
10 things you were seeing out at the Watershed?

11 A. No. We didn't talk much about at that. The
12 pictures pretty were self-evident. I just took pictures
13 of, you know, chicken operations, either spreading litter
14 or getting chickens or catching chickens or, you know,
15 transporting chickens, chickens on the road, you know.
16 They do come out of the coup once in awhile.

17 Q. Yeah. When -- let's go back to that first meeting
18 with Dr. Fisher. What -- how did -- how did Dr. Fisher
19 describe to you what you were supposed to do, what did he
20 say about it?

21 A. He and Steele just asked me if I'd be interested
22 in taking pictures of chicken houses and poultry
23 operations. And I -- and they were looking for ways to
24 clean up the Watershed and I said I'd volunteer to help
25 them out.

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1 Q. Did they tell you what they wanted pictures of?

2 A. Anything to do with the poultry operation in and
3 about, you know, the Watershed area. Chicken houses,
4 litter trucks, chicken trucks, not plants or anything like
5 that, you know. I didn't go to Car -- you know, into
6 Springdale and do anything like that.

7 Q. Uh-huh. Did they give you any training on how to
8 use the equipment?

9 A. Showed me how to take a picture, but I've been a
10 pretty -- self -- pretty easy to learn, you know, got full
11 proof now.

12 Q. How about the GPS device, did he show you --

13 A. They showed me how -- how it worked and I'd push
14 it and it records the location. And I -- it was one of
15 those handheld ones. That's the last time I've ever used
16 one, so I can't exactly explain how, you know. I had a
17 little pamphlet that told me how to use it.

18 Q. Did they ever take you out and have you test it
19 and --

20 A. No.

21 Q. Did they want you to write anything down?

22 A. No.

23 Q. Did you write anything down on any forms or
24 anything?

25 A. No, I had no forms or anything to fill out,

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1 nothing like that. I just -- I'd write down Picture 1 and
2 2 was taken, you know, just for me so I'd remember where
3 the chicken houses were, you know. I'd say off the Euchie
4 Road, two miles or something like that, you know, Picture 3
5 and 4 was four miles.

6 Q. Would you write that down on a -- strike that.

7 On what would you write -- on what would you
8 write those notes?

9 A. Just a piece of notebook paper.

10 Q. And we'll talk more in detail about that in a
11 little bit. So besides Dr. Fisher and his student, anybody
12 else come by or talk with you about this project?

13 A. Not a single person, no.

14 Q. Well, other than Steve Steele and -- and
15 Dr. Fisher and this student, did you ever meet anyone that
16 was involved in this -- in this -- in this case?

17 A. No, sir.

18 Q. Did you ever talk to anyone else on the phone?

19 A. No, sir.

20 Q. Did you ever meet any of the other police officers
21 that Steve Steele was working with?

22 A. I think I did meet one police officer a long time
23 ago, but not in connection with this. It was just -- he
24 just introduced him.

25 Q. When you met with Dr. Fisher that first time,

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1 was -- was -- was Major Steele present at that meeting?

2 A. He introduced us, yeah.

3 Q. Did you meet with Mr. Steele about this matter any
4 other time after that?

5 A. I -- I saw Steve socially and he told me what he
6 was -- they were looking into and asked if I'd help him and
7 I -- I volunteered to help.

8 Q. But other than that initial conversation, any
9 other time?

10 A. I saw Steve socially, but we didn't have any long
11 discussions about chickens. We're both big baseball fans.
12 That's mainly what we talk about. He's a Royals fan. I'm
13 a Cardinal fan. We get into it.

14 Q. Did they ever -- did -- did Dr. Fisher or Major
15 Steele ever ask for your Social Security number or your --

16 A. No.

17 Q. -- ask you to fill out a W -- any tax forms at all
18 or anything?

19 A. No.

20 Q. You were saying earlier that you were compensated
21 for your mileage.

22 A. Well, I don't know how -- I would take -- what
23 they did was they bought the pictures, you know. And when
24 I figured it out at the end of the deal, I probably didn't
25 -- you probably paid better for mileage than they did.

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1 Okay. Let's put it this way, I didn't make any money.

2 Okay.

3 Q. So you were paid on a per-picture basis; is that
4 correct?

5 A. I never even asked. It was -- it was a voluntary
6 thing. I just wanted to help because I just -- I grew up,
7 my dad helped build -- did some dirt work on the Tenkiller
8 river -- or Tenkiller lake when I was a child. I grew up
9 on the Baron Fork in Evansville and the Illinois river.
10 And I see the condition they're in now and I'm not a
11 scientist, I don't know what's causing it, but I thought if
12 I could help in any way to alleviate the problem and
13 that -- it was my civic duty to try. Compensation was not
14 the idea.

15 Q. When you would take pictures, how would you know
16 where the pictures were later on?

17 A. How would I know what?

18 Q. You say you took pictures. You traveled on the
19 watershed; correct?

20 A. Uh-huh.

21 Q. You took pictures?

22 A. Yes.

23 Q. How would you know later on where, you know, if
24 someone wanted to go back and find out where you took
25 that -- those pictures, how would they do that?

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1 A. When I took Picture 1 and 2 of chicken house so
2 and so, I put it in the GPS unit or and then they'd
3 download all of that so they could see that 1 and 2 went
4 with this GPS location.

5 Q. So you would write down somewhere --

6 A. I'd write down Picture 1 and 2, that GPS location,
7 how many houses or how many trucks and I'd turn that stuff,
8 you know, those notes -- and not really notes, just write
9 down Picture 1 and 2, 12 and 14, whatever, where they were
10 taken.

11 Q. So when you arrived at a location, what would you
12 take a picture of?

13 A. All the houses at -- you know, from -- the digital
14 camera had a -- you know, you could zoom in and zoom out,
15 even after you took the picture, right. So I might take a
16 picture. There's one place there's like 20 or 30 houses in
17 one location, you know. And you'd take a wide angle shot
18 of it and there might be something going on at one of them.
19 They May be unloading chickens or loading chickens and I
20 might take a picture of that.

21 Q. What else might you take a picture of?

22 A. Litter trucks loading litter out of the chicken
23 houses or disbursing it on fields in the area.

24 Q. Anything else?

25 A. No.

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1 Q. Mr. Sharp, what did you do to prepare for today's
2 deposition?

3 A. I did nothing. I got up and took a shower and
4 drove up here.

5 Q. Did you talk with anyone either last week or this
6 week or since you've been served with the subpoena about
7 what you're gonna say today?

8 A. Not what I was gonna say.

9 Q. About anything?

10 A. I talked to -- I believe it was you I talked to
11 the phone, wasn't it? I talked told him on the phone and
12 told him I was coming up and told me he represented -- he's
13 with the law firm that -- on the other side and he'd be
14 here with me. And that's all -- and that's about the end
15 of the conversation.

16 Q. And when did this conversation take place?

17 THE WITNESS: Two days ago?

18 A. Two days ago.

19 Q. (BY MR. DOLAN) He can't answer right now. That's
20 the best of your memory?

21 A. Two days ago, I think. We had one brief
22 conversation a week -- the week before that, but I was
23 taking care of an elderly patient in a wheelchair and I
24 couldn't talk and I told him that we'd have to talk at
25 another time.

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1 Q. Have you had the opportunity to talk with Major
2 Steele since you've been served with the subpoena?

3 A. I -- I called him as soon as I was served.

4 Q. What did you talk about with him?

5 A. I just -- I just told him I'd never been served a
6 subpoena in a Federal Court before. And he said, well,
7 there's nothing to it. He said I've got one, too. That's
8 about it.

9 Q. Did you talk at all about what you'd be saying
10 today?

11 A. Just tell the truth, what I did.

12 Q. And have you talked to Major Steele since he gave
13 his deposition earlier this week?

14 A. No, no, not since he's gave his. He told me he
15 was giving one, but I don't remember when it was.

16 Q. Have you talked with any of the other
17 investigators?

18 A. No. I've talked to no one but this gentleman and
19 Steve one time when I got the subpoena.

20 Q. Uh-huh.

21 A. And I talked to him then, just a few minutes and
22 he was going somewhere and it was a brief conversation.

23 Q. Okay.

24 A. Baseball season was starting and it moved on to
25 baseball.

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1 Q. Did you review any documents ahead of this
2 deposition? Did you look at any paper at all?

3 A. No, sir.

4 Q. I need to ask you some questions about your --
5 your education. Where did you go to high school?

6 A. Stillwell High School.

7 Q. And did you graduate from Stillwell?

8 A. Yes, I did.

9 Q. And what years -- what year was that?

10 A. 1969.

11 Q. Did you go on after that and get any other course
12 work?

13 A. I -- in the '80s, I was a musician and I took a
14 recording engineers training course in Chillicothe, Ohio.
15 And after that, I did a lot of work on the road with
16 country and rock and roll bands doing sound reenforcement.
17 And then I -- in the '90s, '90, '91, somewhere along there
18 in Springdale, I took consumer electronics courses, to, you
19 know, fix VCRs, camcorders, TVs and whatnot.

20 Q. Any other training or education you can recall?

21 A. That's it. Life of hard knocks. Truck driving.

22 Q. In the course of your high school or your
23 recording engineering courses or your consumer electronic
24 courses, did you at all study any environmental sciences?

25 A. No, sir. Well, I took science, you know, in high

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1 school, you know. I mean, I know poison is poison and
2 water is good and air is breathable, but I -- no training
3 to speak of.

4 Q. And during the course of your course work in high
5 school, did you ever develop any skills in investigatory
6 sciences or observation techniques?

7 A. Probably more watching cop shows than anything.

8 Q. Let's talk about your employment history. What do
9 you -- are you currently employed right now?

10 A. Yes, I am.

11 Q. What do you do right now, Mr. Sharp?

12 A. I drive for a community action organization called
13 Kiowa Boys Area Transit and we take care of -- do you know
14 what Sooner Care is?

15 Q. No. What is it?

16 A. Poor people on Medicaid and the -- that have to go
17 to dialysis or to a doctor's appointment or hospital or
18 something, I drive them to and from these appointments.
19 You know, a lot of them are infirmed, in wheelchairs and
20 walkers and what not. Pretty rewarding work, actually.

21 Q. And how long have you been doing that?

22 A. Going on two years.

23 Q. Is that a full-time job?

24 A. Yes, it is.

25 Q. What did you do prior to driving for that

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1 assignment?

2 A. I drove for Edwards Trucking out of Springdale,
3 Arkansas.

4 Q. And what sort of trucking do they do?

5 A. Excuse me?

6 Q. What -- what sort of trucking?

7 A. Hauled sand and gravel to concrete and asphalt
8 plants, masonry sand to schools where they'd be building a
9 building or something.

10 Q. Were you living in Stillwell at that time?

11 A. Yes, I was.

12 Q. And what -- what -- do you recall what years that
13 was?

14 A. God, I've been -- it was the two years prior that
15 I started CAT, so I'd have to sit and do my fingers and
16 toes to get it.

17 Q. Prior to that, what were you doing?

18 A. Drove a truck.

19 Q. Cross country truck?

20 A. Yeah.

21 Q. And where were you living at the time?

22 A. Stillwell.

23 Q. Stillwell. How long have you lived in Stillwell?

24 A. All my life.

25 Q. Have you lived at the same location, the same

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1 house?

2 A. Within a two-block area, mostly. I can see the
3 house I grew up in across the street from where I live now.
4 So yeah, pretty much the same location. You didn't need an
5 address when I was a kid. You could have sent this to Jim
6 Sharp and I would have got it. Didn't need the address on
7 it.

8 Q. Maybe that's why your address isn't on it right
9 now.

10 A. Well, the guy didn't have any trouble finding me.

11 Q. So other than truck driving and the current
12 driving that you do now, any other jobs that you've had
13 during your career?

14 A. I was a musician. I was a -- a sound recording
15 engineer. I worked in a recording studio in Woodstock, New
16 York for a couple of years. I did -- I was a road manager
17 and sound guy for a rock and roll band in Canada. We
18 toured all over. I did -- I worked with a -- different
19 sound companies doing sound reinforcement for country bands
20 and rock bands in Tulsa and Oklahoma City and Texas,
21 wherever.

22 Q. And have you ever worked on a farm?

23 A. My family owns a farm and they -- in 1946, they
24 started a farm machinery business in Stillwell, Oklahoma.
25 So I grew up in farm machinery and working out in the

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1 fields on these farm machines all over Eastern Oklahoma.

2 Q. What -- what kind of farms?

3 A. What kind of farm? What kind of farm what?

4 Q. What kind of farms were -- were in that area?

5 A. Well, when I was working for my dad, you know, my
6 grandpa, it was mainly cattle and hay operations. Not much
7 else grew over there because of the rocky terrain, squash,
8 green beans, strawberries.

9 Q. And this was -- was in the Stillwell area?

10 A. Yeah. Adair County, international Harvester
11 dealership. I was the only one small enough to crawl
12 inside a bailer to change the knife, so I got to do that a
13 lot.

14 Q. Did your family use fertilizer on the -- on the
15 ground?

16 A. My family moved, like I say, to Stillwell. The
17 farm is over in Washington County, Arkansas. My dad still
18 owns it. A little over a hundred acres.

19 Q. Does he still actively farm?

20 A. No. My dad's too old. Well, I won't say that.
21 Yeah, I guess he -- he thinks he actively farms it, so --

22 Q. Does somebody else manage the -- the operation?

23 A. It's not a -- it's just a big hay field. There's
24 not a house or a barn or nothing on it. And he's got a
25 neighbor that he leases it to -- to run cattle on certain

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1 times of the year and certain times of the year they cut
2 hay off it and halves on it or something. I don't know.
3 It's not my business, so I don't ask a lot of questions.

4 Q. Is litter applied on that?

5 A. I have no idea. You'd have to ask my dad. I hope
6 not.

7 Q. Have you ever worked, though, on a farm?

8 A. When I was in high school, I moved the irrigation
9 pipe, picked beans, bailed -- I hauled hay. We had a
10 one-ton truck so my dad would let me use it at night and I
11 would -- me and my buddies would haul hay for some farmer
12 and stack it in the barn for extra money.

13 Q. Have you ever worked on a poultry farm?

14 A. No.

15 Q. Have you ever been on a poultry farm?

16 A. Oh, yeah. Sure.

17 Q. As part of this investigation?

18 A. No. Years ago, a friend of my dad's had a poultry
19 operation and a good friend of mine, his father had two
20 chicken houses. So at times, I had to help distribute baby
21 chickens and put the waterers out and -- you know, I even
22 tried catching chickens and that was a -- that was a Laurel
23 and Hardy episode.

24 Q. Forgive my ignorance, but how big of a town is
25 Stillwell?

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1 A. Less than 3,000 people, thereabouts.

2 Q. How did you meet Steve Steele?

3 A. Through a mutual friend.

4 Q. Was this a friend in the music industry?

5 A. A friend in the bar industry.

6 Q. And how long have you known Steve Steele?

7 A. Four or five years, I guess. I'm not really sure.

8 Q. And are you social friends?

9 A. We've had dinner together and a couple of
10 cocktails. He comes to my birthday party. I try to go to
11 his, you know.

12 Q. So he lives in around the Tulsa area and you live
13 in Stillwell. How -- how do you -- how do you come to
14 cross paths?

15 A. Well, I was in the music business a whole lot, so
16 I know just about every picker in this town. And so I have
17 a party yearly at some location in Tulsa that all my
18 friends come and poke fun at me and listen to rock and roll
19 and have a few drinks and dance. And Steve is one those
20 friends.

21 Q. Do you recall the -- the date or the month or the
22 time of year when you had that initial conversation?

23 A. The initial conversation with whom?

24 Q. With Steve Steele regarding this investigation.

25 A. I'd like to say early -- early or middle spring

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1 couple of years ago.

2 Q. Do you remember what year?

3 A. Well, let's see. I guess it would have been early
4 2007, I guess. That's only a guess, but I think that's
5 right.

6 Q. How long were you working on this investigation?

7 A. Six -- five or six, seven weeks. I don't know.
8 Not very long.

9 Q. Why did your work on this project stop?

10 A. They said they had enough information. I got a
11 phone call that the college student would be down to pick
12 up the equipment and they were turning what they had over
13 to whoever they were turning it over to.

14 Q. And was this approximately five to seven weeks
15 after you started?

16 A. Yeah, a couple months. I don't know.

17 Q. Have you ever heard of a Steele Investigations and
18 Research, LLC?

19 A. I've heard it -- I've heard it mentioned, yeah.

20 Q. Have you done any work for them?

21 A. No.

22 Q. Have you done any other work for Steve Steele
23 other than this project?

24 A. No.

25 Q. Now, you respect Steve Steele, don't you?

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1 A. I respect police officers in general, but yes, I
2 respect Steve Steele.

3 Q. All right. Have you ever talked to -- besides --
4 besides Mr. Green, have you ever talked to any other
5 attorneys in this case?

6 A. No, sir. You're the first. Well, actually, I met
7 this lady here a while ago when I came in, so --

8 Q. Did Mr. Fisher -- Dr. Fisher, I'm sorry, ever give
9 you any documents?

10 A. He gave me aerial photographs one time of the
11 Stillwell, Adair County area. I think it was three or
12 four, they rolled out yay long, you know, aerial
13 photographs showing large chicken operations. But I live
14 in Adair County. I knew where those were. I didn't need
15 aerial photographs.

16 Q. Well, why did he give you those photographs?

17 A. I guess he thought it would make it easier for me
18 to find these locations. But like I say, I know every back
19 road in Adair County so there was not anything he could
20 teach me about how to find anything in Adair County.

21 Q. Would -- would he or Major Steele tell you which
22 particular locations to go to or did you pick that
23 yourself?

24 A. I picked that myself. I would just go -- I'd
25 decide to go, well, I'll go north and east, I'll go north

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1 and west, I'll go south and east, you know, just it was
2 like a drive in the country. You know, I'd take a sandwich
3 and pop.

4 Q. Did Dr. Fisher or Major Steele give you any
5 instructions on what you're supposed to do or not do?

6 A. He told me not to violate anybody's property
7 rights. Never to go on anybody's property. And I did not.

8 Q. Anything else?

9 A. Not that I can think of.

10 Q. Any other documents that Dr. Fisher gave to you?

11 A. Never gave me any documents, just like he gave me
12 those pictures and I gave all that stuff back, like I said,
13 when I turned the camera and the cell phone and the GPS
14 unit back over to that college student. I wish I could
15 remember his name. I'm sorry I can't, but --

16 Q. Did you -- did you ever withhold documents from
17 Dr. Fisher, documents related to this investigation?

18 A. No. I had no such documents to withhold. No. I
19 just gave him everything -- just the pictures and the GPS
20 locations. That's all I did. You know, I took the
21 pictures, I wrote down the GPS coordinates and I put them
22 in the GPS unit and I turned it all over to the kid. He'd
23 download the computer and that's the last I'd see of him.

24 Q. Did you ever review any report written by
25 Dr. Fisher or any documents?

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1 A. I doubt if I'd understand it.

2 Q. But you -- you haven't seen any?

3 A. No. No, I have not.

4 Q. Have you ever reviewed any other documents from
5 any other experts on -- on who are involved in this case
6 that you're aware of?

7 A. What I read in the newspapers.

8 Q. Do you follow this case in the newspaper?

9 A. I follow just about everything in the newspaper.
10 Not just particularly this, but, you know, pretty -- follow
11 the baseball scores and the elections and the whole nine
12 yards.

13 Q. You talked a little bit earlier, Mr. Sharp, about
14 how you were compensated by money that was given to you to
15 reimburse you for your mileage. Was there an agreement in
16 place or a contract?

17 A. No. No agreement. Just a -- I sold them some
18 picture -- you know, I'd take the pictures and sell it to
19 him.

20 Q. Did you -- did you -- did he have you sign
21 anything?

22 A. I think I did sign, you know, that I'd stay off --
23 I wouldn't violate any, you know, laws or anything like
24 that, you know.

25 MR. DOLAN: Mark this as Exhibit 2.

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1 (Exhibit No. 2 was marked.)

2 Q. Mr. Sharp, I'm handing to you what the court
3 reporter has marked as Exhibit 2. Do you recall this
4 document at all?

5 A. Yeah, I've seen it.

6 Q. And is this similar to an agreement that you --
7 you signed with Dr. Fisher?

8 A. Yes.

9 Q. And if you look at the upper -- upper-right
10 corner, does this date seem right to you?

11 A. Yeah, that sounds right.

12 Q. All right. If you look at the second page --

13 A. Well, I'm not -- no, it doesn't seem right,
14 January -- this date here.

15 Q. Yeah. Correct.

16 A. Well, I guess it is, but --

17 Q. Well, if you go to -- why don't you take a look at
18 the second page. Do you see another year there?

19 A. Yeah.

20 Q. Is that different than the year on the first page?

21 A. Yeah.

22 Q. All right. Do you think it's possible that this
23 date is just not correct?

24 A. It's possible.

25 Q. All right. And from your -- your memory, what's

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1 your best recollection of what -- what year you may have
2 been involved in this project?

3 A. It would have been 2005, but I don't remember it
4 being January. I thought it was closer to spring, but, you
5 know, I could be wrong, you know. I don't remember what I
6 did yesterday, but --

7 Q. Do you -- do you know who drafted this document?

8 A. I have no idea.

9 Q. Was this -- is this -- was this document presented
10 to you or some other document presented to you by
11 Dr. Fisher?

12 A. Yes, it was.

13 Q. Okay. And you recall signing a similar document?

14 A. Yes, I believe I did. Yes, I did.

15 Q. Read the first sentence there. It states that,
16 this letter confirms our understanding that Lithochimiea
17 wishes to enter into an agreement with you for purposes of
18 purchasing photographs, notes, physical objects and other
19 information recorded or obtained by you.

20 A. That's the way I understood it.

21 Q. Besides the photographs and notes and photos that
22 you mentioned earlier, were there any other physical
23 objects that you provided to Lithochimiea?

24 A. I think one time I took -- in a bar ditch, I took
25 some dirt and put it in a baggy where they had been putting

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1 chicken litter on a field and I gave it to the college
2 student. I don't know if it was used or tagged or examined
3 or anything else. I never heard anything else about it.

4 Q. Where was this dirt from?

5 A. County road in Adair County near Chance, Oklahoma.

6 Q. Do you recall the property it was -- it was near?

7 A. It's a -- it was on a county road, I mean, outside
8 of the fence --

9 Q. Uh-huh.

10 A. -- the right-of-way where they were spreading
11 chicken litter. I didn't know who owned the property. I
12 just -- there were like three or four trucks at the same
13 time spreading chicken litter.

14 Q. Would you have made any notation that you did that
15 on -- on any form or document?

16 A. I'm sure I took a picture of them spreading the
17 litter, probably more than one. And I probably wrote down
18 the GPS coordinates on a piece of notebook paper and then I
19 turned it over to the college kid.

20 Q. Do you think you would have written down took
21 litter sample or took -- took dirt sample?

22 A. Probably. I don't remember that. It's just --

23 Q. You can't recall what property that is; correct?

24 A. I could -- I don't know who owned it. I know
25 approximately where it was. I could probably drive you

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1 there, but I couldn't tell you who owns it.

2 Q. Do you remember what road it was on?

3 A. It's on a country road off of Chuy Chance Road.
4 Like two or three miles off of US 59. It would be West 59
5 off the Chuy Chance Road. And it would be a mile to two
6 miles south of the Chuy Chance Road.

7 Q. Were you instructed to pick up samples?

8 A. No. I just did it. It was a spur-of-the-moment
9 thing. I -- you know, I saw them spreading this real heavy
10 litter and I just took a sample. I didn't know if it even,
11 you know, would go on across the fence.

12 Q. What -- how did you take the sample?

13 A. I don't remember. I just used something to just
14 dig in the dirt, scooped up a handful and put it in a
15 baggy.

16 Q. Was it a bag you had for your sandwich that day?

17 A. Probably, yes. Not very scientific, I know.

18 Q. Have you ever received any training in --

19 A. No, sir.

20 Q. -- sampling techniques? I just want to make sure.

21 A. Just did it. It was a spur-of-the-moment thing,
22 you know. You know, you get wrapped up in something and
23 you think maybe you can help. I took a handful of dirt.

24 Q. Besides the -- the dirt sample, anything else that
25 you provided to Lithochimiea?

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1 A. Can you say that word? Say it. I never could say
2 it.

3 Q. There's many ways to --

4 A. I asked him to change the name of the company, so
5 I could say it, but, you know, he laughed. No. I gave
6 nothing but what I've already told you. I gave maybe that
7 one bag of dirt. I gave him the -- the flash drive or
8 whatever it is in the camera, you know, and they downloaded
9 the pictures. And I gave them the notes I took, that
10 Picture 12 and 13 was from this GPS location. And I gave
11 them back all their stuff and I gave them back their photos
12 and, you know, the aerial photos I told you that they gave
13 me. And other than that, I gave them nothing.

14 Q. What did you understand Lithochimiea to be?

15 A. Well, all -- the way I understand it is that Steve
16 knew Dr. Fisher and Dr. Fisher is some sort of brain at TU
17 and that the Attorney General was concerned that the
18 watershed was being polluted and that they would like
19 someone on the ground taking pictures and documenting
20 locations where it sometime maybe someone scientific could
21 go and take, you know, more precise readings of the soil
22 and water samples. Not me personally, but someone else.

23 Q. Did you ever go with anyone who took more precise
24 samples?

25 A. No, I did not.

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1 Q. The next line there says that, the term of this
2 agreement shall be from the date of this signing until June
3 30, 2006.

4 A. That's correct.

5 Q. Do you know why that date's in there?

6 A. Well, I was -- I'd applied for this job I've got
7 now and I knew I was gonna be starting either July or the
8 first of August. And I wanted to go to St. Louis and go to
9 some ball games. And I told them that that was about the
10 best I could do to help them out and then I would moving on
11 to this job and going to the ball game.

12 Q. Does that sentence help you remember when you may
13 have entered into this contract?

14 A. I think it was -- yeah, I think it was early
15 spring. I could have signed this in January. I'm not
16 saying I didn't. I don't know for sure, but I didn't -- I
17 don't remember ever being out there taking any pictures
18 when I was cold and wet. And in January and February, it
19 would not have been a fun thing to do, to be out there
20 taking pictures in the rain and snow. So I think it was
21 more like in May or something, you know, when I started
22 taking the pictures. April -- middle of April. I don't
23 even know for sure April but I say April and May or May and
24 June. But I know I didn't do any -- I didn't take any
25 pictures, that I remember now. I never say never, but I

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1 don't remember ever being cold.

2 Q. But does -- does this sentence help you remember
3 what year it may have been?

4 A. Yeah, that's -- that's the year I'm pretty sure it
5 happened.

6 Q. 2006?

7 A. Yeah. I think this is a misdate up in here in
8 this corner. Because I know I didn't do it in no
9 year-and-a-half. It wasn't then.

10 Q. On Line No. 3, it states that, items that may be
11 purchased by Lithochimiea will relate to the poultry
12 industry generally and in particular will relate to the
13 poultry in Eastern Oklahoma and Western Arkansas. And the
14 next line says, the items that may be purchased by
15 Lithochimiea include but are not necessarily limited to the
16 subject matter, poultry facilities, poultry wastes,
17 including dead birds and all aspects of poultry operations.

18 Is that your understanding of what you're
19 supposed to observe?

20 A. Yeah. And I miss -- correct myself, I did pick up
21 a dead bird one time and gave it the college student in a
22 bag, but --

23 Q. And where -- where did you find this dead bird?

24 A. It nearly hit me in the windshield coming off a
25 truck. So I stopped and picked it up and put it in the

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1 back of my truck and when I got home I put it in a garbage
2 bag.

3 Q. Did you put it the freezer or did you just keep it
4 the garbage bag?

5 A. I put it in the garbage bag and put it in the
6 freezer until he came. Yeah, I didn't want that thing
7 laying in the backyard. I have too many cats.

8 Q. And do you recall who was operating the truck that
9 it fell off?

10 A. No, I really -- I probably took a picture, but I
11 couldn't tell you took to this, you know, whether it was
12 George's or Tyson's or, you know. There's a lot of
13 freelance operators, you know, Cobb Ventures and a lot of
14 other people that haul chickens, so I'm not a hundred
15 percent certain whose truck it fell off. No, sir, I'm not.

16 Q. All right. Line 7 there says, you agree that you
17 will keep confidential and will not disclose the terms of
18 this agreement. And do you further acknowledge your
19 obligation to keep this agreement and its terms
20 confidential shall continue after the term of this
21 agreement.

22 Do you know why they wanted to keep this
23 confidential?

24 A. No. I didn't ask. You know, I just -- it was in
25 there. I don't know for why.

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1 Q. On Line 8, it says, you agree that you will
2 provide these items to Lithochimiea on an exclusive basis.

3 A. Yeah, I found that humorous myself.

4 Q. Was anybody else asking you for this information?

5 A. No, they were not. Not many people were asking
6 for pictures of litter trucks. No, they were not.

7 Q. Line 14 there, it says, Notice of termination of
8 this agreement before it expires on June 30, 2006 shall be
9 in writing. Did -- did you ever receive anything in
10 writing from the State?

11 A. I got a -- I got a letter -- I think I got a
12 letter in the name on or about that time that that -- you
13 know, that this guy would be coming down there to pick up.
14 I think that was the legal way to do it right. And then --
15 then someone called me on the phone and said when are you
16 going to be around. And I -- then the kid called me, the
17 college student and said meet you for a hamburger somewhere
18 and I said sure. He came down and I handed the stuff over
19 to him and I think it was on or about that time, but I
20 couldn't be for sure.

21 Q. Did the student at least pay for the hamburger?

22 A. I think he did. Matter of fact, I'm pretty sure
23 he did.

24 Q. And do you keep -- did you keep that letter?

25 A. No. I don't keep anything, man. My house is too

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1 small to keep what I got what I own.

2 Q. And is that -- is your understanding that you
3 stopped working on this project approximately June 30,
4 2006?

5 A. That's -- that's correct.

6 Q. So you stated earlier that you had worked about
7 five to seven weeks.

8 A. Yeah, something like that.

9 Q. Does that help you recall at all when -- when you
10 may have started working on this project?

11 A. It seemed like it was, you know, end of spring and
12 it went up to the end -- evidently went up to the end of
13 June, so I'd say May and June. Maybe nine weeks. I don't
14 know. You know, I couldn't tell you for a hundred percent
15 certainty. But that's -- it seems like it was that time
16 because the Strawberry Festival comes toward the 1st of May
17 in Stillwell. And if I can remember correctly, it was
18 around that time that I started doing this.

19 Q. How many hours per week did you spend on this
20 project?

21 A. I don't know. Three or four. I'd go out at
22 different times of the day and night and, you know, I might
23 be gone two or three hours. I might be gone four or five
24 hours, whatever.

25 Q. Any -- and rhyme or reason to when you would be

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1 going out?

2 A. Well, yeah. To me there was. I mean, daytime was
3 the best time for taking pictures, in the afternoon, I
4 know. And a lot of stuff would be going on in the
5 afternoon. Trucks are hauling chickens. Litters are being
6 spread. And at night, seems that they -- they catch
7 chickens at night, you know, and they load and unload that
8 stuff at night. I didn't go too many nights. I don't
9 think more than three or four nights at all, you know.
10 Because there wasn't much -- you couldn't see much and what
11 could you take a picture of in the dark.

12 Q. Did anyone ever call you up and -- and ask you to
13 go on some place in particular?

14 A. No. No.

15 Q. Did Dr. Fisher or the student or Mr. Steele ever
16 call you up or stop by and tell you that you should be
17 doing your observations differently in any way?

18 A. No. I don't remember that ever happening, no.

19 Q. Other than driving in the Watershed and taking
20 photos of poultry operations, was there any other tasks
21 that you performed?

22 A. Nope, not that I can -- not that I can think of,
23 no.

24 Q. Okay.

25 A. I picked up the one chicken and the one handful of

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1 dirt and took pictures, recorded where they were taken,
2 that's it.

3 Q. And would you travel the entire watershed or would
4 you travel just around Stillwell?

5 A. I went up around Siloam. Illinois River comes in
6 across Highway 412 where it comes together with Osage
7 Creek. And up around West Siloam, Flint Creek also comes
8 through a lot of poultry operations and it jumps into the
9 Illinois River. And then down around Evansville, Arkansas
10 where the Evansville Creek dumps into the Baron Fork which
11 then dumps into the Illinois River. So I think those are
12 just about the only streams I was ever, you know, that was
13 the Watershed, the Illinois River Watershed. And I didn't
14 go out of it. I don't remember going out of it, anyway.

15 Q. And -- and if you were to define for me the
16 boundaries of the Watershed, how would -- how would you
17 describe that?

18 A. When you're near one of those streams. Like I
19 said, there's Evansville, the Baron Fork, the Flint, the
20 Ballard, the Osage. That's about all I can remember right
21 offhand, you know, that feed the Illinois River. Now
22 there's more when you get on down toward the lake. There's
23 Caney Creek and Dry Creek and Chicken Creek and a bunch of
24 them, but there's not -- it's mostly hilly terrain, not
25 very many -- not much poultry operation out in there.

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1 Q. From day to day, would you tend to go to the same
2 places or would you -- you be trying to go to some place
3 different?

4 A. I'd go somewhere different, you know.

5 Q. Did -- did you track where you were going on a
6 map?

7 A. Well, I grew -- like I say, I grew up there so I
8 knew where I was going. It wasn't like I was lost, but
9 part of, you know, sometimes I would remember where this
10 road went and I could look and that was -- I was having fun
11 with the GPS unit. I'd say hey, this is a dead end road.
12 I don't need to go down there, you know, because it won't
13 come out. This one crosses a creek. I'll go down this
14 one. You know, I was exploring my back yard with a tool
15 for navigation. I had never had one before. I was kind of
16 having some fun, to tell you the truth.

17 Q. Did you use the GPS device at all to -- I mean,
18 you used it to identify where you took photos; correct?

19 A. Yeah. When I got in the pickup, my pickup, I put
20 a piece of Velcro on the back of it piece and put a piece
21 of Velcro on my steering wheel and I got in the pickup. It
22 tracked my movements. That GPS unit was recording where I
23 went, how long I was gone and where I stopped. That's the
24 way I understand it. And then I would punch in -- push a
25 button and it would record certain locations where I'd

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1 taken this picture and it would give me longitude and
2 latitude and I would write that down. Like I said, Picture
3 1 through 4, you know, this location, 5 through 8, this
4 location. And that's -- that's it.

5 Q. And do you push the button for any other reason
6 other than taking a photo?

7 A. Yeah. Once I saw -- over near Oaks, Oklahoma, I
8 saw a camel and giraffe in a field and I went what the heck
9 is that and I took a picture of it because I knew no one
10 would believe me. Right. And I took the GPS and I said no
11 one's gonna believe this near Oaks, Oklahoma and I took a
12 picture of that so they wouldn't think I was crazy and I
13 did look on paper. In case I -- I told -- I think I told
14 Fisher. I said I know you're not gonna believe this, but I
15 recorded it and here's the GPS location, go look for
16 yourself.

17 And the main reason I went over that day was
18 because the tornado had come through, if you remember the
19 tornado hitting that area, and there was a lot of
20 destruction. And I was curious, for one thing. And it did
21 hit a few chicken houses, but I don't know that there were
22 any chickens in there. And I took a few photos, but, you
23 know, nothing any -- I didn't -- that's the other reason I
24 used th GPS unit. Yeah, I forgot that.

25 THE VIDEOGRAPHER: We're off the record at

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1 1:51 p.m.

2 (Off the record for less than a minute.)

3 THE VIDEOGRAPHER: We're back on the record
4 at 1:52 p.m.

5 Q. (BY MR. DOLAN) When you were making these
6 observations for the five to seven weeks, did you ever
7 receive any -- any additional training through that period?

8 A. No, sir, I did not receive any training. They
9 showed me how to use the camera and the GPS unit. That's
10 the training I took.

11 Q. And that was at the beginning?

12 A. That's the beginning. That's -- and then the kid
13 that was pretty -- the college kid, he's one of Fisher's
14 students, I guess, he showed me different things, you know,
15 different ways I could manipulate the camera, you know. I
16 didn't know nothing. You know, I'm not very -- very new
17 age, you know. I don't have a GPS unit. I didn't have a
18 laptop. I didn't have a digital camera. So he showed me a
19 couple of things I could do on the GPS unit, you know.

20 Q. Was this the first time you had used a digital
21 camera?

22 A. I think I've taken maybe a dozen photos at a party
23 for someone, will you take our picture together and it was
24 a digital camera and I took their picture. But yeah, it's
25 the first time I extensively took any pictures with a

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1 digital camera.

2 Q. The first time you used a GPS device?

3 A. First I used a GPS device.

4 Q. Now, you said the college student had showed you
5 how to manipulate some photos. What kind of stuff was he
6 showing you how to do?

7 A. Well, it -- you could a -- I didn't know. I found
8 out, you know, like trial and error. But I could take a
9 picture, say, of that building over there. And even though
10 it was a long distance off, then I could use the buttons on
11 the camera to make that a close-up shot and it would clear
12 it up. I mean, it was like I'd taken a close-up shot or I
13 could move the -- the center of the photo to some other
14 point. You know, maybe I caught something peripherally in
15 the photo. Well, you could move the -- manipulate the
16 image around and move it around so you could see, you know,
17 bring it in, push it out. He just showed me a couple of
18 things, you know.

19 Q. Did you ever take any videos when you were making
20 observations?

21 A. No.

22 Q. When Dr. Fisher and Steve Steele were meeting you
23 to describe the assignment, did they give you any training
24 on how they wanted you to document what you were -- what
25 you were seeing?

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1 A. Just to write down the number of the picture and
2 the GPS location that came up when I pushed -- you know,
3 asked for a reading from the GPS unit.

4 Q. Did they want you to describe what was going on
5 on paper?

6 A. I think I took a note or two, you know, like
7 chickens being loaded and chickens being unloaded, chickens
8 being incinerated, you know, dead chickens on the side of
9 the road, fertilize -- you know, litter being distributed.
10 I -- you know, that was about it. I'm not much of a hand
11 writer, you know, so --

12 Q. Did they ask you to -- to -- to make to make
13 notes, though?

14 A. I can't say for sure that they did or didn't, but
15 I thought it was probably -- I should so they would know
16 what was happening. It was like a caption to a picture,
17 you know.

18 Q. Have you had any specific training on -- on the
19 poultry business?

20 A. No. I don't even eat poultry.

21 Q. Why don't you eat poultry?

22 A. I see how they're raised. I don't like -- I don't
23 like the way it smells in a chicken house. I don't -- I
24 don't care for -- maybe once -- turkey at Thanksgiving, you
25 know, maybe and that's about it. I'm a beef eater.

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1 Q. Anything about the smell that bothers you just
2 besides that it's --

3 A. Oh, that ammonia smell will knock you out, man.
4 You know, on a hot summer day, I've had to clean out
5 chicken houses before, you know, as a -- you know, as a job
6 you take on for money. I've done it a few times and it's
7 not something you enjoy.

8 Q. When is the last time you cleaned out a chicken
9 house?

10 A. I was probably in high school, you know. They
11 weren't near as big then here.

12 Q. Do you think the poultry industry is important to
13 the economy of your community?

14 A. Absolutely. Well, not to my community, per se,
15 because Tyson pulled out of Stillwell. So we don't have
16 any poultry workers in Stillwell or Adair -- well, we do up
17 in northern Adair County. Tyson has farms up there. But
18 it's not particularly important to Stillwell.

19 Q. But is it important to the larger region as a
20 whole?

21 A. I imagine it is. I'm sure it's important to the
22 people that grow them, you know. I'm not against them
23 growing them just because I don't eat them.

24 Q. Your knowledge of -- of poultry operations, is it
25 based on anything more than just your observations from

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1 living in Stillwell?

2 A. My cousin's uncle owned a poultry operation. And,
3 like I said, I was out there on that farm all of my
4 childhood and adult life until he passed away. And one of
5 my best friends, his dad had a poultry operation, small one
6 for several years. And a friend of my brother's had four
7 or five houses and I know him and his wife pretty well.
8 But no, not -- you know, it's not like a -- I just knew a
9 lot of people. I saw how it was done. Like I say, I tried
10 to catch chickens one time and I cleaned out a couple of
11 chicken houses, and I distributed baby chicks, waters and
12 feed. It used to be done a whole lot different. It's a
13 lot more automated now.

14 Q. So the -- the -- the process has changed since you
15 were last involved in it; is that a fair statement?

16 A. I guess it would be a fair statement, yes. It's
17 come a long way.

18 Q. Are you familiar with the -- of the contractual
19 relationship between growers and integrators?

20 A. I used to hear growers complain about it. I know
21 in the old days, growers used to steal chicken feed from
22 the -- from the Tysons and Cargills and what not to feed
23 hogs, so they could fatten the hogs up and they could sell
24 hogs and have pork. You know, I know that went on until
25 they reined in feed, you know, I think it's a lot closely

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1 monitored now. But that's what -- that's what I understood
2 went on back in the '60s, anyhow. But no. That's about
3 it.

4 Q. Are there a lot of cattle ranchers up in that
5 area?

6 A. Yeah, most people -- there's a few -- few dairy
7 farms and a friend of my dad's has got a dairy farm and up
8 around Chance and there, there's a couple of dairy farms
9 and -- but mostly it's beef cattle, hay.

10 Q. Uh-huh. And is -- is -- is cattle a big industry
11 in that community?

12 A. I guess. I mean, you know, it's the way the
13 farmers make a living and they spend money in town. Yeah,
14 I guess, agriculture is pretty important to the state of
15 Oklahoma and Arkansas, I guess.

16 Q. And did -- when you -- when you were out making
17 your observations, did you see a lot of cattle around?

18 A. Yeah, I saw a lot of cattle.

19 Q. Did you take any pictures of cattle?

20 A. That wasn't what I was doing.

21 Q. So you were -- you were focused only on the
22 poultry business?

23 A. And the spreading of poultry litter, yes, sir.

24 Q. And that's what you were directed to do; right?

25 A. That was my understanding, yes, sir.

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1 Q. All right. Did you -- did you ever receive any
2 training or have experience other than your youth in
3 chicken houses hauling out litter? Do you have any other
4 training in litter management, pest management practices?

5 A. No. I -- I don't know how many tons per what
6 or -- I don't know nothing, you know.

7 Q. Do you know the differences between raising
8 chickens and raising turkeys?

9 A. Well, some turkeys are free-range, I know that. I
10 don't think I've ever seen chickens free-range. I haven't
11 seen any, anyway, but I don't know. A turkey house and a
12 chicken house are pretty much alike, I guess.

13 Q. Are you familiar with one-stage versus a two-stage
14 versus --

15 A. No.

16 Q. -- a three-stage process?

17 A. No. I'm not -- sure not, no. Sorry.

18 Q. Are you familiar at all with poultry mortality
19 management practices?

20 A. No, I'm not. I know their hearts used to explode,
21 you know. That's what the farmers would tell me, that
22 they'd grow so fast that sometimes the hearts -- you know,
23 they just keeled over died. But I don't know about the
24 management of such problems.

25 Q. And that's nothing you observed as part of this --

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1 A. No.

2 Q. -- investigation? No?

3 A. No.

4 Q. Do you know the differences between a brood house
5 and a grow-out house?

6 A. Brood house and --

7 Q. A brood house and a grow-out house.

8 A. Not -- not technically -- not really, you know. I
9 know there's -- there's laying houses and there's -- you
10 know, they -- they grow some chickens just to the one size,
11 like the Cornish hen and then they grow bigger hens and,
12 you know, the regular chicken you buy in the store and then
13 the bigger hens for Christmas. I don't know. I couldn't
14 tell you which one was which unless I saw the eggs
15 themselves, I would know.

16 Q. When you were working this investigation, did
17 you -- did you work at all with any kind of hazardous
18 material, hazardous waste?

19 A. No.

20 Q. Were you given any kind of clothing to handle
21 hazardous waste?

22 A. No.

23 Q. When you picked up that dirt pile, were you
24 concerned at all that you might get --

25 A. I put a glove on. I wore a glove. I had a rubber

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1 glove, yeah. Because I pump diesel all of my life, so a
2 rubber glove is part of my equipment package in any vehicle
3 I've got.

4 Q. And you used that same rubber glove?

5 A. Yeah, you know, I used that glove, yeah. So it's
6 not very technical, I know. It's probably contaminated
7 with diesel, but I couldn't help it.

8 Q. Are you familiar at all with the environmental
9 laws of Oklahoma?

10 A. What I read in the paper.

11 Q. But you have no particular knowledge of specific
12 statutes or regulations?

13 A. Absolutely not.

14 Q. And that would be true -- the same for Arkansas as
15 well?

16 A. Absolutely. I do not know.

17 Q. Have you ever reviewed a nutrient management plan?

18 A. No, I have not.

19 Q. Do you know what one is?

20 A. Nutrient is the -- the fertilizer you're putting
21 on the -- you know, putting back into the soil. I know
22 what you're talking about, but I don't -- I wouldn't know
23 one if it walked up and bit me, you know.

24 Q. So you wouldn't -- what -- what -- if a grower has
25 a nutrient management plan, you wouldn't know, like, how

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1 they use it or what was in it?

2 A. No, I would not know.

3 Q. And you've never reviewed one?

4 A. No, I have not.

5 Q. Is the same true for an animal waste management
6 plan?

7 A. That's true. The absolute truth, I have not.

8 Q. Do you have any experience with what's called fate
9 and transport issues?

10 A. With what?

11 Q. Fate and transport, F-A-T-E.

12 A. You mean dead chickens coming off trucks?

13 Q. Nope. No, that's not what I'm talking about.

14 A. I don't know what you're talking about, then.

15 Q. All right. Were you -- were you tasked to look
16 for over-application of litter?

17 A. Not tasked for it. I just took pictures when they
18 were doing it and I figured, you know, if they were
19 overdoing it, that someone besides me would know when that
20 was. Not me, you know, not me specifically.

21 Q. You didn't think that you had the ability to
22 determine --

23 A. No, I didn't.

24 Q. -- if something was over-applied?

25 A. No, I didn't know whether they were applying the

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1 right amount or the wrong amount. I just took a picture of
2 them applying it, you know.

3 Q. So you don't -- you don't think you took any
4 pictures of anything that you knew to be a violation of
5 law?

6 A. To the best of my knowledge, I just saw men
7 working and making a living. That's all. If somebody
8 hires you to spread litter, you spread it, you know.

9 Q. And you have no opinions to whether something you
10 saw was a violation of law, do you?

11 A. No. I wouldn't know if it was a violation of law.
12 I have an opinion that I want the Watershed cleaned up, as
13 a concerned citizen only. And I don't know what's causing
14 it. But if they find out, I'd like to see them do
15 something about it.

16 Q. We may have covered this but I just want to make
17 sure we have it for the record. Have you in your entire
18 life ever taken any environmental samples of soil or water
19 or litter?

20 A. One -- one handful of dirt, that's about all I can
21 remember. I -- I lived in LA and I've sampled the smog
22 through my nostrils and said let's get the hell out of
23 Dodge. You know, it's time to leave. But that's the only
24 sample I took.

25 Q. When you decided to make an observation on

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1 someone's property, where -- where would you make the
2 observation from generally?

3 A. The county road.

4 Q. Would you -- would you try to conceal yourself at
5 all?

6 A. Not one iota. No, sir, I did not try to conceal
7 myself. As a matter of fact, I actually talked to a couple
8 of people that stopped and asked me what I was doing. A
9 couple of people asked me what I was doing and I said
10 nature photography is what I said.

11 Q. You told them nature photography?

12 A. Yeah. And -- and trying out my GPS unit. I think
13 I got asked maybe three or four times if I was lost or
14 needed to know where I was going.

15 Q. Were you instructed to -- to tell -- what did
16 Dr. Fisher and Mr. Steele tell you to say when you -- when
17 people were hostile to you or telling --

18 A. No one was ever hostile to me. I'm not saying
19 that, no. They never -- they never said anything about it.
20 It didn't come up in conversation.

21 Q. How -- how often did that occur when people would
22 come up to you and talk to you?

23 A. I think it happened three or four times, you know.
24 You're sitting on the side of the road, you know, and
25 people are just friendly. I mean, you're sitting. Are you

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1 broke down? No. You're sitting on the side of the road
2 and your truck's not running, they think maybe you're broke
3 down and need some help or you're lost.

4 Q. And no one got upset at you about that?

5 A. No. No one.

6 Q. Did you tell Dr. Fisher or -- or Major Steele
7 about -- about those times?

8 A. I probably did. I can't remember specific. There
9 was nothing to it. They just asked me if I need any help.

10 Q. Did they give you any instruction on how to handle
11 it differently in the future?

12 A. No.

13 Q. You said before that you never actually went onto
14 a grower property; is that what you said?

15 A. No, I did not.

16 Q. Other than those people that you talked to, was
17 there -- was there anyone else you talked to when you were
18 out in the field doing these observations, any truck
19 drivers or anyone else?

20 A. Yeah, a couple times I talked to a couple truck
21 drivers in Westville that were hauling chicken litter, you
22 know, just on a hot day, you know. I didn't -- I didn't
23 grill them about what they were doing or where they were
24 going or nothing like that, you know.

25 Q. It wasn't about what you were doing --

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1 A. No.

2 Q. -- or asking questions about --

3 A. No. They weren't asking me and I wasn't asking
4 them. We were having a cigarette outside a convenience
5 store and one truck driver can tell another one even when
6 he's not in a truck. I don't know how that is, if we smell
7 funny or what, but they always know you're a truck driver.
8 Even if you've got a suit and tie on, they'll walk up and
9 say hey, driver, what's up or hand.

10 Q. Did you ever have anyone driving with you?

11 A. No.

12 Q. You were just always by yourself?

13 A. Always by myself. Sometimes I'd take my fishing
14 pole. When I got done, I'd go somewhere and fish, you
15 know. Maybe I'd go to a bar, you know, go shopping or
16 whatever, you know.

17 Q. You fish in that area right around there?

18 A. Well, we call Tenkiller time killer now.

19 Q. It's good place to fish?

20 A. It's good place to kill some time. You're not
21 catching many fish.

22 Q. Any good places to fish on those streams around
23 there?

24 A. Not really.

25 Q. Okay. Are there still a lot of people floating

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1 down the river?

2 A. Yeah, I guess so. All of those people stay in
3 business over there. I don't know how many of them there
4 are, but a lot of people come from the city to, you know,
5 raise cane and get drunk on the weekend over there.
6 They're a lot stricter than they used to be.

7 Q. Do you ever do any of that kind of recreation in
8 that area? I'm not talking about fishing. But do you ever
9 go swimming --

10 A. Oh, sure.

11 Q. Where -- where do you go swimming?

12 A. Baron Fork or Illinois River or Tenkiller or a
13 swimming pool. And when I was a kid, we used to go to
14 Evansville Creek a lot, but I haven't -- you know, haven't
15 been -- there's not really a good hole of water there. Now
16 you can't get in most places on the creek because it's
17 private property and they don't allow good -- the good
18 swimming holes are kind of owned now.

19 Q. But you're not afraid to go swimming in the river
20 or are you?

21 A. I'm not terrified to go swimming in the river, but
22 I know when I pick up a algae covered rock, that it wasn't
23 that way when I was ten years old.

24 Q. But you're not -- you're not sure what's causing
25 that algae?

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1 A. I just know there's algae bloom. I'm not a
2 scientist. I'm just trying to help out. That's all I was
3 doing.

4 MR. DOLAN: Why don't we take a break right
5 now and let you feed your meter. And as soon as you're
6 back, we'll start again.

7 THE VIDEOGRAPHER: We're off the record at
8 2:10 p.m.

9 (Break was taken from 2:10 p.m. to 2:19 p.m.)

10 THE VIDEOGRAPHER: This is the beginning of
11 Tape No. 2. We are on record at 2:19 p.m.

12 Q. (BY MR. DOLAN) Mr. Sharp, before we took a little
13 break, one of our last topics is one of my favorite topics,
14 fishing. And I'm wondering what kind of -- kind of fish
15 are present in the streams and rivers to the Watershed
16 there.

17 A. Bass, perch. If you get down below Tenkiller
18 there's trout in the Illinois.

19 Q. And do you -- do you ever eat the fish that you
20 catch?

21 A. I'm not much of an eater, no. I just like to
22 catch them. Catch and release mostly. I give them to
23 people.

24 Q. You give them to people who --

25 A. It's occasionally. Most of the time I just catch

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1 and release. It's actually more of a pastime than it is a
2 sport with me.

3 Q. And a couple final additional questions on your
4 compensation, do you know who it -- strike that.

5 Would you get a check for the work you did?

6 A. No, I did not get a check.

7 Q. You got paid in cash?

8 A. I got cash, yes.

9 Q. And who would give -- who would give you that
10 cash?

11 A. Once or twice it was Dr. Fisher and the rest of
12 time it was the college kid.

13 Q. And you stated before that it was approximately
14 100 and --

15 A. 150, 100. I don't know. It depends -- I guess
16 they -- the pictures I took, you know, it was never the
17 same amount, so I wouldn't go -- I would spend, you know,
18 maybe I wouldn't see as many houses in one week as the next
19 or -- I don't know how. I never asked because, to tell you
20 the truth, it wasn't for the monetary. And you wouldn't
21 believe how many batteries a GPS unit and a digital camera
22 eat.

23 Q. Did you have to purchase the batteries?

24 A. Well, they gave me a big sack of batteries to
25 start with, but that lasted about, you know, a week or

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1 ten -- two weeks or so. So I never turned any receipts or
2 anything. I just took some of the money I got from them
3 and bought new batteries. You know, I thought it would
4 have probably been smart to buy a battery charger but I
5 didn't.

6 Q. Were you paid per picture you submitted?

7 A. I never did ask how it was -- I guess it was.
8 That's all I can tell you, you know.

9 Q. Were you -- were you paid based on the type of
10 photograph you took?

11 A. Not to my knowledge. I mean, like I say, it would
12 be 150. It was never more than -- I think the most I ever
13 got was \$180, but I, you know, for -- that's some reason
14 that's -- you know. I don't know how many pictures I took
15 or -- you know, like I say, I just turned over everything
16 to them so whatever they -- I guess they were looking at
17 how many places I stopped, how many pictures I took, how
18 many miles I drove and they decided on this arbitrary
19 number that I -- I should be get this recompense. So I
20 never asked.

21 Q. Did you ask to be paid in cash?

22 A. No, I didn't. I didn't ask anything. I wasn't
23 expecting to be paid, period.

24 Q. When you got done with your observations for that
25 day and got home, where would you keep your -- your

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1 documents and your camera and GPS?

2 A. On my -- sitting on my couch next to my easy chair
3 that I sit in and watch TV.

4 Q. Did you -- did you have an opportunity review at
5 the end of the day and make sure if you everything looked
6 right?

7 A. No. I mean if you've seen a chicken house, you've
8 seen a chicken house. Maybe I looked at the giraffe a
9 couple of times, you know, but not --

10 Q. On the photo?

11 A. -- nothing -- nothing else.

12 Q. Did you keep a copy of that to show people?

13 A. I didn't know how to download and I didn't have a
14 computer. And I didn't know you could go to Wal-Mart and
15 get that done or I would have, but I didn't.

16 Q. Did you keep any other photos you might have
17 taken, documents or anything?

18 A. No, I kept nothing.

19 Q. All right. While you had the GPS unit, did you
20 ever calibrate it?

21 A. It was calibrated when it was brought to me and
22 the -- like I say, the college kid was the geek on the team
23 and he downloaded and checked things, you know. So I have
24 a feeling that some of my pictures were followed up on by
25 someone else, but I don't know that for a fact. I just

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1 kind of figured that was why I was doing it. And so if
2 they'd have had trouble finding a location due to poor
3 calibration of the GPS, I think someone probably would have
4 said something.

5 Q. Was there ever a time that you observed something
6 that you thought was important that you gave either Major
7 Steele or Mr. Fisher a call?

8 A. Yes, one time.

9 Q. And what was that time?

10 A. Near Dutch Mills, Arkansas, the dead fish on the
11 water, the dirty water and what to me seemed a very small
12 field getting a whole lot of litter.

13 Q. What was the weather that day?

14 A. Sunny and dry, to the best of my recollection.

15 Q. Do you generally go out when it was good weather?
16 Did you ever go out in storms?

17 A. Well, not -- not, I don't think, a storm. I mean,
18 I'd be out and it would start raining, you know, whatever.
19 You know, I can't -- that didn't have anything to do with
20 whether I went or not, you know. I didn't drive out in a
21 tornado or nothing.

22 Q. That incident you mentioned where you saw the dead
23 fish, was it one fish or was it more than one fish?

24 A. More than one fish. Several fish. Less than 10
25 more than 2.

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1 Q. And you took pictures of that?

2 A. I got it -- I parked -- there was junction of
3 Arkansas 59 and Arkansas 45 and there's a place you can
4 pull off and park on the shoulder there. And I drove
5 across the bridge originally and saw it, and it is the
6 Baron Fork, so I walked back over there and took pictures
7 of both -- it's not a very heavy -- it's not very busy so I
8 wasn't in danger or anything, and I walked on the bridge
9 and took pictures of both sides. And then I -- I didn't
10 know that the litter -- I didn't know what was -- what was
11 going on and I drove on around the corner and I saw the
12 litter truck spreading the litter on this field, so I
13 stopped and took a picture of the litter truck and the
14 field and took a GPS reading. And I can't remember if I
15 called Fisher or if he just happened to call me, you know,
16 where I was gonna be the next day to meet this kid or
17 something. I don't remember whether I called him or he
18 called me, but it was -- I said I just saw something that
19 looks bad.

20 Q. How far away were you from the fish from where you
21 took the photos?

22 A. From here to that TV.

23 Q. Which is approximately?

24 A. The bridge is not very high. And the water was at
25 normal level, which is, I'd say, 10 feet from the roadbed

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1 to the top of the water, maybe 12. I don't know. And they
2 were out -- you know, they weren't under the bridge. They
3 were out halfway, you know, maybe to the end of the table.

4 Q. Just for our record, what -- what -- what would
5 you say the distance is in feet?

6 A. I'd say that it was 12, 15 feet, something like
7 that.

8 Q. Were you at the road -- were you on the road at
9 the time?

10 A. I was on the -- yeah, the edge of the road, up
11 on -- standing on the lip of the bridge, the curb of the
12 bridge.

13 Q. And how far away was the litter truck when you
14 turned the corner from the location where the fish were?

15 A. 100, 200 yards. Right across the -- right across
16 the road from where the stream was.

17 Q. On the other side of the road?

18 A. On the other side of the road. But I could -- it
19 was part -- I think it's part of the same farm. It's on
20 both sides of the road. I don't know the gentleman that
21 owns it, but he's lived there -- his father, I did meet him
22 one time, but I don't remember his name because he's gone
23 now. And -- and I'd noticed litter trucks on both sides,
24 but that particular day it was across the road.

25 Q. Did you take any samples that day of the -- the

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1 water or the fish or the litter --

2 A. No. Like I say, I talked to Fisher on the phone
3 and him and someone who he was with or what, they were not
4 that far away from where it was. And I said do I need to
5 meet you, and he said no. He said give me the GPS
6 coordinates. And I gave him the GPS coordinates and I told
7 him, country boy way where it was, take Arkansas 59 off of
8 412 in Siloam Springs and come south. You get to 45 and
9 when you get to 45, you'll cross the Baron Fork, Dutch
10 Mills Arkansas.

11 Q. Did -- did you do any follow-up on -- on that
12 particular incident?

13 A. Yeah. I came back a time or two and looked it
14 over.

15 Q. Did you see anything out of the ordinary?

16 A. It was always pretty brackish. You know, there
17 was something -- it never did look as clean as other places
18 in the Baron Fork.

19 Q. But you -- you're not aware of the particular --
20 the particular reason why, are you?

21 A. No, I'm not. I'm not making any speculations.
22 All I'm saying is I saw this and I saw this. I took
23 pictures. I reported what I saw. And what they did with
24 that is not -- I don't know.

25 Q. Are you aware of any other follow-up that

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1 Dr. Fisher or anyone else did with that incident?

2 A. I do believe he did come to that location. I
3 didn't stay there and meet him.

4 Q. Uh-huh.

5 A. I was -- you know, I was -- I think I was getting
6 hungry and I was headed toward the house, you know. I
7 think it was time -- I think supper time was calling me or
8 a ball game was about to start or something. You know, it
9 was happy hour. I don't know. But I was headed home. I
10 didn't meet him. So whatever he did with it, I don't know.

11 Q. And did he ever inform you at -- did you ever
12 discuss that with him at a later date, that incident?

13 A. Not that I recall. I don't think so.

14 Q. Were there any other things you observed at -- for
15 which you called Dr. Fisher or Mr. Steele?

16 A. Nothing -- that -- that's the one time that
17 something really stood out that I thought, you know, might
18 need someone to look into, you know.

19 Q. Any observations that you made stick out in your
20 mind?

21 A. That's the main one right there.

22 Q. That's the main one. Anything else of -- of note
23 in your -- you opinion?

24 A. Like I said, the field I was telling you about,
25 there were about four trucks spreading on one field and I

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1 thought, man, that's quite a lot of chicken litter. But I
2 don't -- like I say, I'm not aware of the nutrient level or
3 how much is too much or how much is not enough. I don't
4 know. But I took pictures of the trucks and the GPS
5 location of the field. That's -- that's -- you know, there
6 was no dead fish or nothing -- nothing standing out like
7 that that drew my interest anymore than that, you know.

8 Q. So no other observation that stands out in your
9 memory besides the two that you just discussed?

10 A. Yeah. One other thing, and it turned out to be
11 nothing. I saw, like, eight or ten litter trucks. I was
12 sitting in Westville and they all rolled by me loaded,
13 which I could tell, I mean, being a driver. And they were
14 all headed south. And I thought, well, I'll follow them
15 and see where they're gonna dump this litter, you know.
16 And I followed them as far as Sallisaw and that's where
17 I-40 -- they got on I-40 and I thought well, that's out of
18 my watershed. So, you know, they're gone. So I was just
19 curious to see if it was going to be dumped anywhere in the
20 Watershed and it wasn't. There wasn't nothing I could do
21 about it if they did, but you know what I'm saying. I just
22 was curious.

23 Q. Were there other times you followed trucks outside
24 the Watershed?

25 A. No. That was the one time only. There just

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1 happened to be so many of them, I was going, wow, you know.

2 Q. So it was a large amount of litter that was to be
3 taken out?

4 A. Yeah.

5 Q. Did you -- when you used the term dump litter,
6 what do you mean by dump litter?

7 A. Well, they -- they don't really dump it like a
8 dump truck. They have what they call live floor beds. If
9 you're familiar with the term, it's a rotating belt with
10 things that, you know, rubber things that stand up and
11 it's -- and then I think they have a thing that spins
12 around on the back of them, you know, and shoo, shoo, shoo,
13 you know, and distributes it.

14 Q. So by -- by dump litter you mean --

15 A. Spreading litter. If I use the term dumping
16 litter, I'm sorry. I meant to say spreading litter. I
17 never saw anyone, per se, dump like a pile of litter. I
18 did see piles of litter that had been dumped, but they were
19 cleaning out chicken houses. They were probably going to
20 pick it up at some point.

21 Q. Did you ever talk to any growers in the Watershed
22 about how they used their land?

23 A. No, I did not.

24 Q. Did you ever talk to any growers about how the
25 land had been used historically?

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1 A. I knew that the -- the idea when chicken houses
2 first started appearing was that, like I said, they'd feed
3 some of the feed to the hogs so they could have some hogs
4 and they'd spread the litter so the grass would grow better
5 for hay for the cattle. You know, it was kind of a
6 circular thing, you know. And it worked and helped the
7 grass grow and I just think maybe, you know, been
8 over-done. I was all for the program for one year, but
9 that didn't come about, so --

10 Q. But in your opinion, do you think litter is
11 important, though, for that -- for that whole process?

12 A. I think it's very important for the whole process,
13 but I also think clean water is very important. So you've
14 got to -- you've got to, you know, ying and a yang here.
15 You can't have it all one way.

16 Q. Uh-huh. But have you -- have you talked to any
17 particular growers about that?

18 A. My friend's dad when we were in high school,
19 that's -- he told me and my dad's friend told me how he
20 used it, you know. And occasionally, I think farmers
21 supplemented their income by selling loads of litter to
22 other land owners that didn't grow chickens. I'm sure that
23 happened a lot. But you know, no specific knowledge of
24 what it cost or who did it or nothing like that.

25 Q. So the growers would -- would sell the litter

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1 as -- as a way to make money?

2 A. Yeah. Some people will buy anything.

3 Q. Let me ask you this question, Mr. Sharp. From
4 your experience with -- with growers, do you think any
5 grower would purposely apply so much litter that beyond --
6 beyond what was needed on the land?

7 A. I hate to think so. I mean, I -- I can't judge,
8 you know. I -- I don't know how much -- you know, I don't
9 know if they watch weather reports, gonna be big gully
10 washer today and it's all gonna run off into the streams.
11 I mean, I hope they don't do it then, you know, but I don't
12 know.

13 Q. Would you agree, though, that litter is a valuable
14 commodity?

15 A. I'd say it probably -- yeah, I guess it is.

16 Q. But in terms of this -- in terms of this
17 investigation for -- for Lithochimiea, did you talk to any
18 particular growers about how their land had been used in
19 the past?

20 A. No. I -- I just observed. That's all I did.
21 Observe and take pictures. That's as clear as I can make
22 it. That's all I did.

23 Q. All right. How about the history of the land
24 ownership, is that something you talked to anyone about?

25 A. No, sir.

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1 Q. How about the history of cattle production on the
2 land, that something you talked to them about?

3 A. No, sir.

4 Q. And the history of any other agricultural
5 activities?

6 A. No.

7 Q. All these things I've asked you about talking to
8 the growers, were you instructed to do any of that by
9 the --

10 A. No.

11 Q. -- by the -- Mr. Steele --

12 A. No.

13 Q. -- or Dr. Fisher?

14 A. No.

15 Q. Okay. While you're making these observations, did
16 you have an opportunity to talk to any company
17 representatives?

18 A. One.

19 Q. Okay. Who was that?

20 A. John Russell, deceased.

21 Q. And who's Russell?

22 A. He was married to the former mayor of Stillwell,
23 Marilyn Hill and he worked for George's. He was a field
24 representative.

25 Q. And what did you talk to Mr. Russell about?

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1 A. Everything. He was a friend and -- but not
2 specifically what I was doing, you know, but I asked if he
3 thought people overspread litter and he said they probably
4 do. I don't know. But I wasn't quizzing him, though, just
5 in conversation. I didn't tell him what I was doing, you
6 know.

7 Q. Did you report that conversation to Dr. Fisher?

8 A. No. There was nothing to report. I just happened
9 to know him, you know. I wasn't gonna grill the man.

10 Q. And did he know at the time that you were doing
11 this work for the State?

12 A. No. I was supposed to be confidential, so I was
13 confidential.

14 Q. Were you asking questions, though for -- to get
15 background information?

16 A. No. I just asked do you think that that could be
17 part of the problem, you know, with the -- with the water
18 and he said I don't know, you know. He said I'd hate to
19 think that we're doing anything to harm the water. He said
20 I don't know.

21 Q. He basically told you that -- that they wanted to
22 be responsible with what they were doing?

23 A. That's what John told me. He wanted to be
24 responsible. John was a good man. He was a field rep.
25 That's all I can tell you.

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1 Q. Uh-huh.

2 A. I have no ax to grind here. I don't dislike
3 anybody in the poultry business. I'm not saying that.

4 Q. John Russell was a field rep.

5 A. He was a field rep for George's and I think he --
6 he was right at retirement whenever this was happening or
7 had retired or was going to retire and he didn't -- he
8 didn't live much longer, sorry to say.

9 Q. He didn't tell you that he knew of or --

10 A. No. He told me -- he gave me no inside
11 information, nothing like that. I got no information that
12 would be relative to the lawsuit or to the investigation
13 about the spread of chicken litter or nothing else. I'm
14 just trying to be truthful. You asked if I did speak to
15 anybody and I did speak to him but that's it.

16 Q. Did you feel that Mr. Russell was giving you his
17 personal opinion or --

18 A. I'd say so.

19 Q. Did you talk to any litter applicators?

20 A. No, I didn't.

21 Q. When you were out in the Watershed making these
22 observations, did you test any litter?

23 A. Did I what?

24 Q. Test any litter.

25 A. I wouldn't now how to test litter. No.

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1 Q. Did you --

2 A. I did not test litter.

3 Q. Did you do anything to determine the rate of
4 litter application?

5 A. No, sir, did not.

6 Q. Did you measure the distance from litter
7 application to any water body?

8 A. The one where I said I saw the dead fish was, you
9 know, 100 yards to 150 yards away on the other side of the
10 road, you know, a rough estimation, not a -- you know, I
11 didn't step it off or use a tape measure or anything like
12 that. I did take a GPS location of the stream and the
13 litter truck.

14 Q. Other than that, though, it was your common
15 practice to measure distances?

16 A. Just the GPS unit measured the distances from
17 where -- from where I went to where I went. It was all
18 being -- you know, like I say, I turned it on when I left
19 and I turned it off when I came back to my backyard. That
20 was it, so --

21 Q. So if you saw litter application, took a GPS
22 coordinate, would you then try to find a nearby water body
23 and get that coordinate?

24 A. No. Because I know where the water bodies are so
25 it wasn't really necessary for me to do that. And I'm not

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1 like -- I don't know how to take water tests or anything,
2 so --

3 Q. Did you evaluate the geology of the land?

4 A. No, sir, I did not.

5 Q. Did you test the soil of the land?

6 A. I got a handful and put it in a bag. That's it.

7 Q. Did you collect what are called edge-of-field
8 samples at all?

9 A. Well, I guess it was -- it was outside the fence.
10 I didn't want to break and I wasn't going to trespass, but
11 it was right of way and there they were spreading litter as
12 on the -- as I say, and I saw as they came down, the litter
13 was going to the edge of the fence and a little over the
14 edge of the fence. So being on a public road, I thought I
15 could take that sample.

16 Q. Other than that instance, did you take any other
17 edge-of-field samples?

18 A. No, sir.

19 Q. Okay. We've just got to be careful not to talk
20 over each other.

21 A. Oh, I'm sorry.

22 Q. Did you attempt at all to observe or note the
23 transportation of hay inside and outside the Watershed?

24 A. No. Just casual, you know, knowledge of it when
25 it's being transported. I mean, you can get behind a hay

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1 truck.

2 Q. Were you asked to do any of these things by -- by
3 Dr. Fisher or Mr. Steele?

4 A. Hay in particular, you're asking me?

5 Q. All of these things, whether it was litters being
6 applied, rate of application, to determine distances to
7 water body, all of these various things I've asked you,
8 were you asked to do any of those things?

9 A. I was asked to observe, take pictures, get GPS
10 locations, make a small note of which pictures was with
11 which GPS location and turn that -- the aforesaid stuff
12 over to the representative of this company, either Fisher
13 or Steele or this college kid and that's what I did.

14 Q. And that's all?

15 A. That's it.

16 Q. All right.

17 A. One chicken and one bag of dirt.

18 Q. You weren't asked to document any distances of
19 stream bank erosion, for example?

20 A. No, sir, I was not.

21 Q. And you weren't asked to observe any distances
22 of -- of wastewater treatment facilities when you passed
23 them?

24 A. No, sir, I was not.

25 Q. You weren't asking to do observe cattle?

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1 A. No, sir, I was not.

2 Q. And did you -- you -- were you told to document
3 commercial fertilizer use when you saw it -- commercial
4 fertilizer use --

5 A. Would I recognize it if I saw it?

6 Q. Well, were you asked to -- were you asked to look
7 for that?

8 A. Then no.

9 Q. Okay. Were you asked to observe or document urban
10 runoff in any way?

11 A. No, I was not.

12 Q. Okay. Are you familiar with a company called BMP,
13 Inc.?

14 A. No, I don't think so. BMP, Inc., no.

15 Q. Doesn't ring any bells?

16 A. No, not right offhand.

17 Q. Okay. Did you observe from any field any water
18 runoff?

19 A. No, I did not.

20 (Exhibit No. 3 was marked.)

21 Q. Mr. Sharp, I'm handing you what has been marked as
22 Exhibit 3. I'll give you a moment to page through that
23 document.

24 A. Oh, yeah. Okay. Yeah, these are the notes for
25 the pages I used. That's my scribbly handwriting.

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1 Q. So these are the -- the pages you used to document
2 your photos and GPS coordinates?

3 A. Yeah. I started off originally I just had a -- a
4 notebook paper and they furnished -- I had forgot all about
5 these. They furnished these to me, yeah. So I wrote the
6 observer's name, the time, the date, direction of the photo
7 I was facing to take the photo, the GPS coordinates, how
8 many pictures there. Yup, that's it.

9 Q. And -- and how -- how far into your -- your work
10 on this project did you receive these forms?

11 A. Golly, I did start in January. I didn't remember
12 that. I don't remember it being cold. Huh.

13 Q. So this document refreshes your recollection as to
14 when you started?

15 A. Yeah.

16 Q. And what's the document on that first day there?

17 A. 1/29. So right at the end -- toward the end of --
18 end of January, start of February. I didn't remember it
19 being cold. Sorry.

20 Q. You notice that if you look at the GPS location on
21 that first page, No. 4464.

22 A. Uh-huh.

23 Q. On -- there's some numbers crossed out and I see
24 that for the first couple of pages. Do you -- do you
25 recall why those numbers are -- the first couple of numbers

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1 are crossed out?

2 A. Because I was new at it and I was screwing up. I
3 saw it and I can't remember the exact deal, but yeah, I was
4 making mistakes.

5 Q. Would you go back and retake the coordinates?

6 A. Yeah, that's what I was doing. I'd go back.

7 Q. Would you retake the photos at the same time or
8 are these the original photos?

9 A. Original photos.

10 Q. So the photos are for one time and the actual
11 coordinates are for when you returned to the location?

12 A. No, I -- I never left. I just -- I wrote it down
13 wrong. I read it wrong. I was reading the wrong line or I
14 was starting, you know -- I'm a screw-up handwriting-wise.
15 So I just -- I got about better at it and I took -- you
16 know, I learned how to read it better.

17 Q. Would you retake the GPS coordinates at all -- or
18 let me strike that.

19 Would you push the button and set the time or
20 would you just reread the --

21 A. Reread it.

22 Q. Are these typical of the kinds of notes that you
23 took, at least when you were using these forms?

24 A. That's typical, yes.

25 Q. And starting at that first page, 4464, and moving

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1 forward, I'm just gonna read some of the times here. It
2 starts out at 12:57, 13:05, 13:10, 13:20, 13:28, 13:32.
3 You can stop there. It seems like you're spending maybe
4 five to ten minutes between locations; is that about right?

5 A. Yeah.

6 Q. For the work you were doing?

7 A. Just one field to the next. And -- and -- if
8 I'm -- I don't -- I can't remember these exact locations,
9 but those would be up around -- there's a lot of poultry up
10 around Westville and north of Westville and west of
11 Westville. And there are lot of houses. There would be a
12 few here and a few there, a few -- you know. So it didn't
13 take long to get from one place to another.

14 Q. Would you look for places where there were a lot
15 of poultry houses grouped together?

16 A. Well, that's usually how you spot them, yeah. I
17 mean, there's seldom ever less than two and -- and many
18 more. I don't think that anybody, you know, tries to do
19 less than four. It looks to me like it from what I see.

20 Q. As your general practice, would you drive around
21 until you saw something you wanted to take a note of or did
22 you try to take an observation or a photo at every
23 poultry --

24 A. At every place, I -- you know, not that they were
25 doing anything wrong, not that they were doing anything

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1 right. There was chicken operations -- poultry operations
2 there, I took the photo. That's it.

3 Q. Whether there was something interesting going on
4 there or not?

5 A. Regardless.

6 Q. Did you wait outside a particular facility and
7 wait for something to happen?

8 A. No.

9 Q. Turn to Page 4477, maybe halfway through, the
10 numbers are sequential.

11 A. 77. Yeah, I saw that gravel operation on Grand
12 Fork Creek. I forgot about that.

13 Q. And what was the reason for taking the photos of
14 this gravel operation?

15 A. I was -- I didn't know it was there and I was
16 driving down the road. And you know, I just thought, you
17 know, this may have some pollution. I don't know if it's a
18 legal operation or, you know. There's been notice of -- at
19 that time there was some stuff going on, you know, on the
20 Illinois, illegal dam building and what not, gravel
21 operations, and I just took it in case it meant anything.

22 Q. Sure. Did you take other photos of -- besides
23 other than poultry farms that you thought might be a --

24 A. That's the only one I can remember and the
25 giraffe. There may be another one, but I can't remember

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1 it.

2 Q. Okay. Fair enough. Mr. Sharp, is it fair to say
3 that you're not an expert on environmental issues?

4 A. I'd say that would be a fair statement.

5 Q. Is it fair to say you don't have any training in
6 environmental issues?

7 A. That's a fair statement.

8 Q. Is it fair to say you don't have any training on
9 investigative -- investigative techniques?

10 A. Fair to say.

11 Q. Is it fair to say that you're not familiar with
12 environmental law?

13 A. Fair to say.

14 Q. And is it fair to say that your -- your task in
15 making these observations was to make observations of the
16 poultry industry -- industry generally?

17 A. Generally, yes, sir.

18 Q. And you weren't tasked to take any particular
19 photos of particular things --

20 A. No.

21 Q. -- at poultry operations?

22 A. I wasn't looking for -- you know, I wasn't out
23 there look for wrongdoing, turning over rocks. I was just
24 making observations. That's all I was doing.

25 Q. And you didn't take any observations of things

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1 that you knew to be violations of law?

2 A. Not a single one.

3 Q. And the State didn't direct you to certain things
4 that -- that you were to look for to be violations of law;
5 correct?

6 A. No, sir.

7 Q. Okay. And you didn't set foot on a single
8 grower's property in this process?

9 A. No, sir.

10 Q. And you didn't talk to a single grower as part of
11 your investigation, other than times where they'd would ask
12 you what you were doing?

13 A. Yeah. No. I think that's the only time I ever
14 talked to a grower.

15 Q. And you didn't run any tests on any samples
16 yourself, did you?

17 A. No, I did not runny tests. I wouldn't know how.

18 Q. And you weren't looking for cattle operations
19 or --

20 A. No, I was not.

21 Q. -- or septic tanks?

22 A. No, sir.

23 Q. Or any other possible sources of pollution?

24 A. If I had to have seen some sort of pollution, like
25 I took a picture of the gravel operation, that was strictly

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1 me thinking, you know, what's going on, you know.

2 Q. But that was of your own doing; correct?

3 A. No one instructed me to do that, to take that
4 picture. I later found out that that was -- I -- I knew
5 the guy who owned it and it was a legal, licensed
6 operation, so I didn't know at the time.

7 Q. And there was only one observation you made where
8 you thought it important enough to contact Dr. Fisher;
9 correct?

10 A. That's the one and only thing I saw that bothered
11 me, you know. I mean, like I say, I don't know how much
12 litter is the right amount of litter so I can't make a
13 judgment on that. All I can say is that one thing bothered
14 me.

15 Q. Mr. Sharp, do you feel like what you're doing
16 during these five to seven weeks would be spying on people?

17 A. I didn't take any pictures of any people at all.
18 I took pictures of operations -- I took pictures of chicken
19 houses and trucks. And I never concealed myself in anyway,
20 so --

21 Q. But you told people you were a nature
22 photographer, though.

23 A. I was taking in every shot and grass, chickens and
24 cows, you know, whatever was in the shot.

25 Q. Well, let me ask you this. If someone came up to

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1 you -- if you walked outside your door of your house in
2 Stillwell and you saw someone taking photos of your house
3 and your yard and making notes, would -- would you be happy
4 about that?

5 A. I don't think it would bother me particularly.

6 Q. Not particularly? You wouldn't mind if someone
7 did that and you didn't know why they were doing it?

8 A. I probably wouldn't notice firsthand, but no, I
9 don't -- I might ask what they were doing.

10 Q. But you would care at least what they were doing;
11 right?

12 A. Yes, I guess I would care.

13 Q. All right.

14 MR. DOLAN: I just need a quick moment to
15 look at my notes. We can go off the record.

16 THE VIDEOGRAPHER: We're off the record at
17 2:51 p.m.

18 (Off the record for less than a minute.)

19 THE VIDEOGRAPHER: We're back on the record
20 at 2:52 p.m.

21 MR. DOLAN: Thank you, Mr. Sharp. I'll pass
22 the witness.

23 THE WITNESS: You're quite welcome.

24 EXAMINATION

25 BY MS. LLOYD:

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1 Q. Mr. Sharp, my name is Jennifer Lloyd. We met for
2 the first time just a few minutes before your deposition
3 began today. You mentioned earlier that we had talked
4 during those meetings. We did not discuss this lawsuit; is
5 that correct?

6 A. Oh, no, no. We were talking about the pirating of
7 the ship off the coast of Somalia. That's what we were
8 talking about if I'm correct. Casual conversation.

9 Q. All right. During your observations in the
10 Illinois River Watershed, did you see commercial fertilizer
11 being applied?

12 A. I don't remember seeing it applied. No, I do not
13 remember seeing it applied.

14 Q. Have you seen it being applied on previous
15 occasions?

16 A. Oh, yes, many times.

17 Q. During your observations, did you ever see cows in
18 the water bodies?

19 A. I can't remember seeing any cows in any springs or
20 streams anywhere, but I'm sure they were. I mean,
21 that's -- cows do that in the summer, but I don't remember
22 witnessing it during this time. Could have, but --

23 Q. So you have seen that in the Illinois River
24 Watershed previously?

25 A. Oh, yeah, absolutely.

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1 Q. You mentioned the gravel -- gravel operation on
2 the Baron Fork Creek, was that near where you had seen the
3 dead fish?

4 A. No. It was probably -- it was downstream several
5 miles. That was near the community of Baron, Oklahoma
6 where that gravel operation is. And the fish I saw were
7 near Dutch Mills, Arkansas on Arkansas 59. So I'd say
8 15 -- as the crow flies, 10 miles, 15 miles. I don't know.

9 Q. In regard to those fish, do you have any idea how
10 long they had been there?

11 A. Absolutely none whatsoever.

12 Q. Do you know if -- strike that.

13 So you have no way of knowing whether they
14 were there before the litter trucks started spreading?

15 A. No, ma'am, I do not know that.

16 MS. LLOYD: I think that is all I have.

17 THE WITNESS: Dang, he burned it all out of
18 me, I guess. Is that it?

19 MS. LLOYD: He did a very good job.

20 MR. GREEN: Look back at my notes real quick.
21 I don't think I need to ask any questions.

22 MS. LLOYD: Do you want to advise about
23 reading and signing?

24 MR. GREEN: You have the opportunity, if you
25 choose, to read over the transcript that's gonna be

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1 produced today for errors and correct it if you want to or
2 you can waive that right.

3 THE WITNESS: I guess I probably ought to
4 read over it. I mean, just, you know -- I don't know. It
5 sounds kind of like dry reading, but maybe I should. I
6 don't know. What do you think?

7 MR. GREEN: It's your decision.

8 THE WITNESS: Well, do you mail me one or do
9 I come pick up one or --

10 MR. DOLAN: You can arrange that with the
11 court reporter when we're off the record.

12 THE WITNESS: Okay. I don't know that I
13 really need one, but --

14 THE VIDEOGRAPHER: We're off the record at
15 2:55 p.m.

16 (End of proceedings at 2:55 p.m.)
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CORRECTIONS AND SIGNATURE

PAGE/LINE	CORRECTION	REASON FOR CHANGE
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I, JIM SHARP, have read the foregoing deposition and hereby affix my signature that same is true and correct except as noted herein.

JIM SHARP

CA# 05-CV-0329 GKF-PJC

STATE OF OKLAHOMA)

Subscribed and sworn to before me by the said witness,
JIM SHARP, on this the ____ day of _____, 2009.

NOTARY PUBLIC IN AND FOR
THE STATE OF OKLAHOMA

My Commission Expires: _____

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1 STATE OF OKLAHOMA)

2 I, Lisa Smith, a Certified Shorthand Reporter in and
3 for the State of Oklahoma, do hereby certify that, pursuant
4 to the agreement hereinbefore set forth, there came before
5 me on the 10th day of April, A.D., 2009, at 12:55 p.m., at
6 the offices of Rhodes, Hieronymus, Jones, Tucker & Gable,
7 PLLC, located at 100 West Fifth Street, Suite 400, in the
8 City of Tulsa, State of Oklahoma, the following named
9 person, to wit: JIM SHARP, who was by me duly cautioned
10 and sworn to testify the truth, the whole truth and nothing
11 but the truth, of his knowledge touching and concerning the
12 matters in controversy in this cause; and that he was
13 thereupon carefully examined upon his oath, and his
14 examination was reduced to writing under my supervision;
15 that the deposition is a true record of the testimony given
16 by the witness, same to be sworn to and subscribed by said
17 witness before any Notary Public, pursuant to the agreement
18 of the parties; and that the amount of time used by each
19 party at the deposition is as follows:

20 Mr. Dolan - 01 hours, 46 minutes,

21 Ms. Lloyd - 00 hours, 03 minutes,

22 Mr. Green - 00 hours, 00 minutes.

23 I further certify that I am neither attorney or
24 counsel for, nor related to or employed by, any of the
25 parties to the action in which this deposition is taken,

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1 and further that I am not a relative or employee of any
2 attorney or counsel employed by the parties hereto, or
3 financially interested in the action.

4 I further certify that, before completion of the
5 deposition, the Deponent _____, and/or the
6 Plaintiff/Defendant _____, did _____ did not _____ request
7 to review the transcript.

8 In witness whereof, I have hereunto set my hand and
9 affixed my seal this 21st day of April, A.D., 2009.



10  _____

11 LISA SMITH, OK CSR 01778

12 Expiration Date: 12/31/2009

Esquire Deposition Solutions

Firm Registration No. 286

13 1700 Pacific Avenue, Suite 4750

Dallas, Texas 75201

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